

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

UNITED STATES OF AMERICA,

v.

DION L. BARNARD,

Defendant.

Criminal Action No. 06-73-GMS

**GOVERNMENT'S RESPONSE TO DEFENDANT'S SUPPLEMENTAL MOTION FOR
RE-TESTING/RE-WEIGHING OF DRUG EVIDENCE**


NOW COMES the United States, by and through its undersigned attorneys, and hereby responds to Defendant's Supplemental Motion for Re-Testing/Re-Weighing of Drug Evidence.

The United States does not oppose the Defendant's Motion for Re-Testing/Re-Weighing of Drug Evidence. Counsel for the government has been in contact with defense counsel and learned that the defendant has chosen Pharmakon Lab to re-test the evidence at issue. Accordingly, the United States respectfully requests that this Court enter the attached Order, permitting the defense to conduct an independent re-weighing of the drug evidence. Defense counsel indicated by telephone that he does not oppose the use of this proposed Order.

Respectfully submitted,

COLM F. CONNOLLY
United States Attorney

BY:


Shannon T. Hanson
Assistant United States Attorney

Dated: June 12, 2007

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

UNITED STATES OF AMERICA,

V.

DION L. BARNARD,

Defendant.

Criminal Action No. 06-73-GMS

ORDER

Upon the Defendant's Motion for an order to independently re-weigh drug evidence, to wit, exhibit number1, DEA Laboratory Number, 177277, as reported in DEA Laboratory Report having the Case File Number CP-06-0022, dated January 23, 2006.

IT IS HEREBY ORDERED in accordance with Federal Rule of Criminal Procedure 16(a)(1)(E), that the Government shall allow the defense to independently inspect and analyze the entire sample from the above-described drug exhibit.

IT IS FURTHER ORDERED that the Government shall arrange the delivery, in a manner consistent with the type and quantity of the controlled substance at issue, the above-described exhibits, in their entirety, to: Beth Minnigh, Ph.D., DEA License No. PP0236605, of the Pharmakon Laboratory, located at 1012 Salk Hall, University of Pittsburgh School of Pharmacy Pittsburgh, Pennsylvania 15261, Telephone: 412- 648-9854; Fax: 412-383-7436.

The Government shall arrange the delivery of this exhibit on or before June 21, 2007.

IT IS FURTHER ORDERED that the defense expert shall conduct the analyses and identification ordered herein, and complete this analysis by July 31, 2007. The defense expert shall provide the Government with an *Unsworn Declaration Under Penalty of Perjury*, under 28 U.S.C. § 17464, executed by the individual who conducted the analyses, or the head of the

facility where the analyses occurred, which states the quantity of the exhibit consumed during testing, and either the weight of each exhibit returned to the Government, or a statement that all the sample was consumed during testing.

The defense chemist, Beth Minnigh, Ph.D., is to safeguard the sample(s) received, preserving the chain of custody in a manner to faithfully protect the integrity of each exhibit received.

IT IS FURTHER ORDERED that all remaining material of the sample(s), after testing is to be returned by the defense chemist, Beth Minnigh, Ph.D., to the DEA Northeast Laboratory at 99 Tenth Avenue, Suite 721, New York, NY 10011, via registered U.S. mail, return receipt requested, or approved commercial carrier, within five (5) business days after the completion of the analysis.

IT IS FURTHER ORDERED, in accordance with Federal Rule of Criminal Procedure 16(b)(1)(B), that the defendant shall provide the Government with a copy of the results or report of the physical examinations and scientific tests or experiments which resulted from the analyses conducted under this Order.

So ORDERED this _____ day of _____, 2007.

Honorable Gregory M. Sleet
United States District Court Judge

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

UNITED STATES OF AMERICA,

Plaintiff,

v.

No. 06-73-GMS

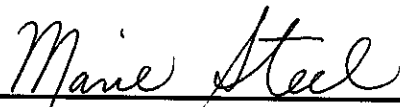
DION L. BARNARD,

Defendant.

CERTIFICATE OF SERVICE

I, Marie Steel, Legal Assistant in the Office of the United States Attorney for the District of Delaware, hereby certify that on the 12th day of June, 2007, I caused to be filed Government's Response to Defendant's Supplemental Motion For Re-Testing/Re-Weighing of Drug Evidence with the Clerk of Court. I further certify that a copy of the foregoing was mailed via First Class Mail and fax to counsel of record as follows:

Joseph A. Ratasiewicz, Esq.
Front Street Lawyers, P.C.
2 West Baltimore Avenue
Flagship Corporate Center, Suite 320
Media, PA 19063



Marie Steel
Legal Assistant